

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 September 2012

**Public Authority:** Kingston Upon Hull City Council

**Address:** Guildhall  
Hull  
HU1 2AA

### Decision (including any steps ordered)

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1. The complainant has requested information relating to Kingston Upon Hull City Council's criteria on the method of selection for filling jobs under the reorganisation, deleting posts and roles, and the method of selection for redundancy. The Commissioner's decision is that the public authority did not deal with the request in accordance with the FOIA. The Commissioner considers that the public authority has breached section 10(1) of the FOIA by failing to disclose the requested information within the statutory time limit of 20 working days.
2. The Commissioner does not require the public authority to take any action as a result of this notice.

### Request and response

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3. On 4 October 2011, the complainant wrote to Kingston Upon Hull City Council ('the council') and requested information in the following terms:  

"I have been denied access to my HCC email files and this remains so. Therefore I hereby confirm and repeat my earlier unanswered request for access to my HCC email account and files and hereby submit a Subject Access Request for my computer files; and a request under the Freedom of Information for your criteria on the method of selection for (i) filling jobs under the reorganisation, (ii) deleting posts and roles, and (iii) your method of selection for redundancy."

4. Having received no response to the requests above, the complainant wrote to the council on 5 February 2012 pointing out that the responses were long overdue.
5. During a telephone conversation on 24 April 2012 the council confirmed to the Commissioner that a response to the request under the FOIA was provided on 9 March 2012.

### **Scope of the case**

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6. The complainant initially contacted the Commissioner to complain about the lack of response to his requests. After having received a response, the complainant specifically requested that the Commissioner fine the council and issue a decision notice for council's failure to provide the information within the statutory time period.
7. The Commissioner notes that the complainant made a subject access request under the Data Protection Act 1998 as well as a request under the FOIA. The request for the complainants own personal data is being dealt with by the Information Commissioner as a data protection case and is therefore outside the scope of this decision notice.

### **Reasons for decision**

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8. Section 1(1) of FOIA requires a public authority in receipt of a request to confirm whether it holds the requested information, and if so, disclose it to the applicant. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
9. The request was submitted on the 4 October 2011. The council did not respond until 9 March 2012, some 5 months later. The Commissioner therefore finds that the council did not make the information available within 20 working days and consequently finds a breach of section 10(1) of FOIA.

### **Other matters**

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10. The Commissioner has informed the complainant that he does not have the power to fine public authorities for breaches of the FOIA.

## Right of appeal

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11. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

12. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**